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BEFORE  THE  IDAHO  PUBLIC  UTILITIES  COMMISSION

IN THE MATTER OF THE PETITION OF)CASE  NO. BTC-T-97-1

BLACKFOOT TELEPHONE COOPERATIVE,)

INC. TO BE DESIGNATED AS AN ELIGIBLE)COMMENTS OF THE

TELECOMMUNICATIONS CARRIER.)COMMISSION STAFF

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COMES  NOW  the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Cheri C. Copsey, Deputy Attorney General, in response to Order No. 27237, the Notice of Petition and Notice of Modified Procedure in Case No. BTC-T-97-1, issued December 2, 1997, submits the following comments.

BACKGROUND

On November 21, 1997, Blackfoot Telephone Cooperative, Inc. (Blackfoot) filed a Petition requesting that the Commission designate it as an eligible telecommunications carrier (ETC) pursuant to the Telecommunications Act of 1996 for the purposes of receiving federal universal service support and other benefits in accordance with the federal Telecommunications Act.  Blackfoot further requested the Commission apply the ETC designation throughout the Idaho portion of its study area.  Blackfoot’s Idaho service area is part of it’s Montana study area, and is associated with its Montana 648 LATA.  In the Petition, Blackfoot claimed that it is a “rural telephone company” within the meaning of Section 153(47) of the Act” and that, with the exception of toll control, it meets the criteria of ETC designation.  Blackfoot also requested the Commission suspend or waive any requirement that it provide “toll control.”

On December 2, 1997, the Commission issued Order No. 27237 which gave public notice of the Petition and notice that the proceeding would be conducted according to the Commission’s Rules for Modified Procedure.

STAFF ANALYSIS

1.  Designation as “Eligible Telecommunications Carrier.”

Before a telecommunications carrier may receive federal Universal Service Fund support, it must be designated as an eligible telecommunications carrier by the state regulatory commission.  47 U.S.C. § 214(e)(2).  Federal universal service support includes high-cost support, reimbursement for discounts provided to low-income customers in the Lifeline and  Link Up programs, and support for schools, libraries and health care providers.

To be designated as an eligible telecommunications carrier, a LEC must offer “services that are supported by federal universal service support mechanisms under Section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier’s services” and “advertise the availability of such services and the charges therefore using media of general distribution.”  47 U.S.C. § 214(e).  In its Order released May 8, 1997, the FCC designated the following services as required “core” services “supported by universal service support mechanisms under Section 254(c)” that must be provided by the LEC in order to qualify as an ETC:

single-party service

voice grade access to the public switched network

touch-tone service

access to emergency services, including 911 and E911

access to operator services

access to interexchange service

access to directory assistance

toll limitation services for qualifying low-income consumers

FCC’s Universal Service Order, CC Docket No. 96-45, FCC 97-157 at ¶¶ 61-82 (codified at 47 C.F.R. § 54.101).  In its Petition, Blackfoot claimed that, with the exception of toll control, it meets the requirements for designation as an eligible telecommunications carrier for its Idaho service area.  Although Blackfoot does not currently have any Lifeline customers in its Idaho Service area, it states it will provide those services if qualifying customers initiate service.

Staff confirmed that Blackfoot offers the above-listed services using its own facilities and generally advertises the availability of these services with the possible exception of toll control as defined by the FCC’s Universal Service Order, (FCC 97-157), at ¶ 383, codified at 47 C.F.R. 54.400(c) (effective January 1, 1998).

Blackfoot requestedthe Commission grant it a waiver of the toll control requirement, and, as explained more fully below, Staff recommends granting a waiver.  Therefore, Staff finds Blackfoot meets the minimum criteria for designation as an eligible telecommunications carrier and recommends granting this request.

2.  ETC Service Area.

In designating a telephone carrier as an ETC, the Commission must also designate the appropriate service and support areas.  47 U.S.C. § 214 (e)(2) and 47 U.S.C. § 214 (e)(5).  Blackfoot requested the ETC designation apply throughout its Idaho service area, which is a part of its Montana study area.  The Telecommunications Act of 1996 defines the ETC “service area” as the “geographic area established by a state commission for the purpose of determining universal service obligations and support mechanisms.”  47 U.S.C. § 214 (e)(5).  In the case of an area served by a rural telephone company, “[service area] means such company’s [study area] unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under Section 410(c), establish a different definition of service area for such company.”  Id.

Blackfoot claims it is a “rural telephone company” and Staff does not dispute this claim.  Staff therefore concurs with the request for designation of Blackfoot’s entire Idaho service area, which is a portion of its Montana study area, as the service area for the ETC designation.

3.  Suspension of Toll Control Requirement.

Toll limitation is one of the services that must be provided in order to be eligible for the federal universal service support mechanisms.  FCC’s Universal Service Order (FCC 97-157), ¶82.  The FCC’s definition of toll limitation includes both toll blocking which allows customers to block toll calls and toll control which allows customers to limit in advance their toll usage per month or billing cycle.  Id. at ¶ 383; 47 C.F.R. 54.400(a)(4) (effective January 1, 1998).  In its Petition, Blackfoot claims it has the ability to provide toll blocking but not toll control.  Blackfoot, therefore, requested the Commission suspend or waive any toll control requirement for a period of five years.

The FCC authorized state commissions to grant a waiver of the requirement of providing toll control or other toll limitation services “upon a finding that exceptional circumstances prevent an otherwise eligible telecommunications carrier from providing . . . toll limitation.”  FCC’s Universal Service Order (FCC 97-157), ¶388; codified at 47 C.F.R. 54.101(c).  The FCC also suggested that any waiver period be limited to the existence of those exceptional circumstances and not extend beyond the time necessary for that eligible telecommunications carrier to complete network upgrades.  Id.

Providing toll control requires substantial integration between the central office switch and the billing records of the customer.  To provide toll control services will require significant upgrades to the equipment and/or procedures used by Blackfoot, because it does not currently have this ability.  Such upgrades cannot reasonably be expected to be implemented in a short period of time.  In addition, previous experience demonstrates that significant customer education is required for an effective toll control program.  Implementing such a complex effort without ensuring that all the procedures are in place and that proper staff and customer education have been completed invites customer confusion, rather than acceptance.  Therefore, Staff finds these circumstances to be exceptional and recommends granting a waiver of the requirement to provide toll control to Blackfoot.

Staff’s experience with the provision of toll control by GTE Northwest, Inc. demonstrates that a period of two to three years is appropriate for the introduction of such a complex service.  Blackfoot indicated that toll blocking is being provided and did not seek a waiver for this feature.  Because at least one form of toll limitation will be available to Blackfoot’s customers, there is no need to rush the implementation of toll control.  Toll control should be implemented in a controlled and orderly manner.  Blackfoot has requested a waiver period of five years.  Staff believes five years may be more time than that required for Blackfoot to properly implement a toll control program.  Therefore, Staff recommends the waiver be granted for a three-year period.  This is the same period of time granted to other small Idaho local exchange companies.  If Blackfoot finds that it needs the additional time, it may petition for an extension prior to the end of the three year waiver period.

SUMMARY OF STAFF RECOMMENDATIONS

1.  The Commission designate Blackfoot as an “Eligible Telecommunications Carrier.”

2.  The service area for the ETC designation be the same as Blackfoot’s entire Idaho service area, which is a portion of its Montana study area.

3.  Blackfoot be granted a waiver of the requirement to provide toll control for a period of three years.

DATED  at Boise, Idaho, this            day of December 1997.

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Cheri C. Copsey

Deputy Attorney General

Technical Staff:  Wayne Hart

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